

Appl. No. 10/816,579
Amdt. dated 30 August 2006
Reply to Office Action of June 05, 2006

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Amendments to the Drawings:

The drawings were objected to because of the following errors followed by the corrective action taken:

- a). On page 13-17 "analyte 80" is referred to but not shown in Figure 1. The specification (J0045) is amended to refer to Figure 3 for reference number 80.
- b). On page 14 "shield electrode 490" is disclosed but not found in Figure 1. The specification is corrected to read "shield electrode 480" See amended paragraph [0045].
- c). On page 17, "shield electrode 442" is disclosed but not found in Figure 1. In amended paragraph [0051], the reference numeral "shield electrode 442" is corrected to read ...shield electrode 480....
- d). On page 20 there is a reference to "structure-switching signal aptamer 820" that is not shown in Figure 3. A replacement sheet showing an amended Figure 3 is provided that shows the entire figure is the "structure-switching signal aptamer 820". These changes to the specification and/or drawings are believed to obviate the stated objections. A replacement sheet is provided for figure 3.

The drawings are further objected to because Figure 1 & 2 refer to reference number 480 that is not mentioned in the description of the invention. Correction of reference to "shield electrode 480 on page 13 (amended paragraph [0045]) and page 17 (amended paragraph [0051]) meets this objection to the drawings.

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REMARKS/ARGUMENTS

The Office Action of 05 June 2006 made FINAL the Election/Restrictions between Group I (Claims 1-23) (elected) & Group II (Claim 24) (non-elected) because the inventions are alleged to be independent and distinct. The Drawings are objected to as failing to comply with 37 CFR § 1.84(p)(5) because certain reference signs used in the description are not supported in the drawings. Further, the drawings are objected to because the drawings include reference characters not mentioned in the description. The specification is objected to because of informalities, specifically to Page 17, line 2; Page 20, line 20 and Page 23, line 20. Claims 1-8, 10, 13, and 15-23 are rejected on the non-statutory obviousness-type double patenting over Claims 1-9, 17 and 22-31 of co-pending Application No. 10/708,191. The Applicants respectfully traverse each objection to the specification and drawings and each rejection of the claims.

Election: The Office Action of 05 June 2006 made FINAL the Election/Restrictions between Group I (Claims 1-23) (elected) & Group II (Claim 24) (non-elected) because the inventions are alleged to be independent and distinct. Applicants continue to elect Group I (Claims 1-23) with traverse. In the interests of moving prosecution forward, Applicants have canceled Claim 24 in favor of filing a divisional application without abandoning the scope of the invention of Claim 24.

Objections to the Drawings: The Drawings are objected to as failing to comply with 37 CFR § 1.84(p)(5) because certain reference signs used in the description are not supported in the drawings. By the above described amendments to the Specification and Drawings, Applicants have responded to each objection to the reference signs used in the specification but not used in the drawings by changing the reference numerals to the correct numeral as used in the drawing. It is believed these amendments to the specification respond fully to the objections to the drawings.

Further, the drawings are objected to because the drawings include reference characters not mentioned in the description. Applicants amend the reference to now read "analysis liquid 450" thereby obviating the objection.

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Objections to the Specification: The specification is objected to because of informalities, specifically to Page 17, line 2; Page 20, line 20 and Page 23, line 20. Correction has been made to Page 17, line 2; Page 20, line 20 and Page 23, line 20 as described above in the amendments to the specification thereby obviating this objection.

Obviousness Double Patenting Rejection: Claims 1-8, 10, 13, and 15-23 are rejected on the non-statutory obviousness-type double patenting over Claims 1-9, 17 and 22-31 of co-pending Application No. 10/708,191 (ARL 04-01). Applicants respectfully traverse this rejection. The instant invention is not obvious from the invention of 10/708,191 (ARL 04-01). The inventions differ in the particulars that amount to the points of novelty between the inventions. Each invention is patentably distinct from the other.

In the interests of moving the prosecution forward without conceding to the Examiner's position, Applicants incorporate a terminal disclaimer to this response.

TERMINAL DISCLAIMER TO OBLIGATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING "REFERENCE" APPLICATION

The United States of America, by the Secretary of the Army through his duly appointed Attorneys, owner of the entire right, title and ownership in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/708,191 filed on 14 February 2004 (Atty. Docket No. ARL 04-01), as such term is defined in 35 U.S.C. §§ 154 & 173, and as the term of any patent granted on said reference application may be shortened by any disclaimer filed prior to the grant of any patent on the pending reference application. The Government hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, or assigns.

In making the above disclaimer, the Government does not disclaim any part of the patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 & 173 of any patent granted on said

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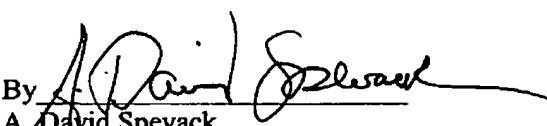
reference application, “as the term of any patent granted on said **reference application** may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference application**,” in the event that: any such patent: granted on the pending **reference application**: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of Competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is a duly appointed attorney to prosecute the instant application and believes authorized to sign this disclaimer.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. The Director is hereby authorized to charge any additional fees or underpayments under 37 C.F.R. § 1.16 & § 1.17; and credit any overpayments to Deposit Account No. **19-2201** held in the name of U.S. Army Materiel Command.

Certificate of Filing by FAX
The undersigned hereby certifies that this Response to the First Office Action on the Merits of June 05, 2006 is being sent by facsimile (FAX) to 571-273-8300 as of Wednesday, August 30, 2006.

Respectfully submitted,
Intellectual Property Counsel
U.S. Army Research Laboratory

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Applicant :Horn-Bond Lin
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Docket No. :ARL 04-34
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Response to the First Office Action on the Merits of June 05, 2006

Appendix

Replacement Sheet of Figure 3

Annotated Sheet of Figure 3

Appl No.: 10/816,579
Applicant: Hom-Bond, Lin
Filed: 03/26/2004
Docket No.: ARL 04-34

Annotated Sheet

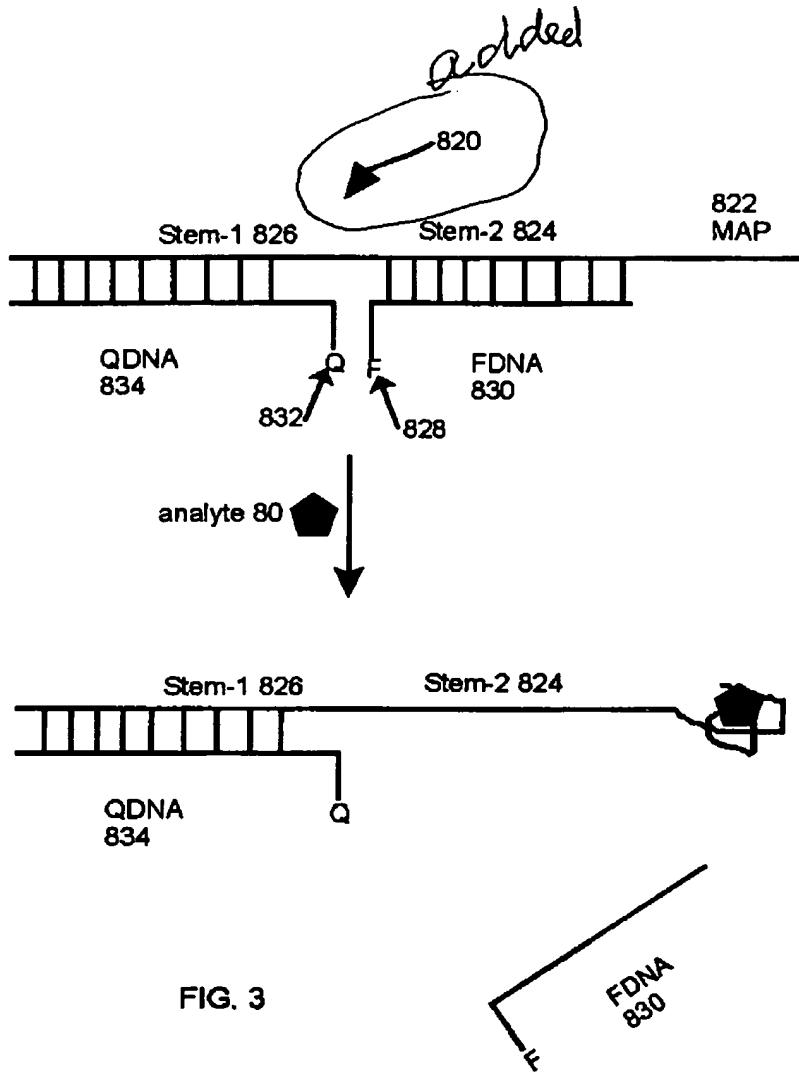


FIG. 3